

HOUSE BILL NO. 225

INTRODUCED BY T. SCHMIDT, FACEY, BUZZAS, CARNEY, ERICKSON, FRITZ, GALVIN-HALCRO

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING ~~AN~~ A HIGHER EDUCATION TRUST FUND WITHIN
THE COAL TAX TRUST FUND; ALLOCATING \$100 MILLION TO THE HIGHER EDUCATION TRUST FUND
OVER A 6-YEAR PERIOD; PROVIDING THAT 90 PERCENT OF THE INTEREST AND EARNINGS ON THE
HIGHER EDUCATION TRUST FUND BE USED TO SUPPORT ~~RESIDENT STUDENTS ATTENDING A UNIT~~
~~OF THE UNIVERSITY SYSTEM~~ THE MONTANA HIGH SCHOOL HONOR SCHOLARSHIP PROGRAM AND
OTHER STUDENT FINANCIAL AID AND THE OTHER 10 PERCENT OF THE INTEREST AND EARNINGS BE
DEPOSITED IN THE HIGHER EDUCATION TRUST FUND; PROVIDING A STATUTORY APPROPRIATION;
AMENDING SECTIONS 17-5-703 ~~AND~~ 17-6-308, AND 17-7-502, MCA; AND PROVIDING ~~AN~~ A DELAYED
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 17-5-703, MCA, is amended to read:

"17-5-703. (Temporary) Coal severance tax trust funds. (1) The trust established under Article IX, section 5, of the Montana constitution is composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax must be deposited;

(b) a treasure state endowment fund;

(c) a treasure state endowment regional water system fund;

(d) a coal severance tax permanent fund;

(e) a coal severance tax income fund; ~~and~~

(f) ~~an~~ A HIGHER education trust fund; and

~~(f)(g)~~ a coal severance tax school bond contingency loan fund.

(2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund during the next 12 months and retain that amount in the coal severance tax bond fund.

(b) The amount in the coal severance tax bond fund in excess of the amount required in subsection

1 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

2 (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by
3 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided
4 in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
5 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
6 specified in subsection (2) to be retained in the fund.

7 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless
8 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as
9 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the
10 next following 12 months.

11 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly
12 transfer to the treasure state endowment fund 75% of the amount in the coal severance tax bond fund
13 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of
14 amounts that are transferred pursuant to subsection (3).

15 (b) Beginning July 1, 1999, and ending June 30, 2013, the state treasurer shall quarterly transfer
16 to the treasure state endowment regional water system fund 25% of the amount in the coal severance
17 tax bond fund in excess of the amount that is specified in subsection (2) to be retained in the fund and
18 in excess of amounts that are transferred pursuant to subsection (3).

19 (c) The state treasurer shall monthly transfer from the treasure state endowment fund to the
20 treasure state endowment special revenue account the amount of earnings required to meet the obligations
21 of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to
22 the treasure state endowment special revenue account must be retained in the treasure state endowment
23 fund.

24 (d) The state treasurer shall monthly transfer from the treasure state endowment regional water
25 system fund to the treasure state endowment regional water system special revenue account the amount
26 of earnings required to meet the obligations of the state that are payable from the account for regional
27 water systems authorized under 90-6-715. Earnings not transferred to the treasure state endowment
28 regional water system special revenue account must be retained in the treasure state endowment regional
29 water system fund.

30 (5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in

1 subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be
2 deposited in the coal severance tax permanent fund. (Terminates June 30, 2013--sec. 6, Ch. 495, L.
3 1999.)

4 **17-5-703. (Effective July 1, 2013) Coal severance tax trust funds.** (1) The trust established under
5 Article IX, section 5, of the Montana constitution is composed of the following funds:

6 (a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal
7 severance tax must be deposited;

8 (b) a treasure state endowment fund;

9 (c) a coal severance tax permanent fund;

10 (d) a coal severance tax income fund; ~~and~~

11 (e) ~~an~~ A HIGHER education trust fund; and

12 (~~e~~)(f) a coal severance tax school bond contingency loan fund.

13 (2) (a) The state treasurer shall determine, on July 1 of each year, the amount necessary to meet
14 all principal and interest payments on bonds payable from the coal severance tax bond fund during the next
15 12 months and retain that amount in the coal severance tax bond fund.

16 (b) The amount in the coal severance tax bond fund in excess of the amount required in subsection
17 (2)(a) must be transferred from that fund as provided in subsections (3) through (5).

18 (3) (a) ~~On January 21, 1992, and continuing as~~ As long as any school district bonds secured by
19 state loans under 20-9-466 are outstanding, the state treasurer shall from time to time and as provided
20 in subsection (3)(b) transfer from the coal severance tax bond fund to the coal severance tax school bond
21 contingency loan fund any amount in the coal severance tax bond fund in excess of the amount that is
22 specified in subsection (2) to be retained in the fund.

23 (b) The state treasurer shall transfer the amount referred to in subsection (3)(a) until and unless
24 the balance in the coal severance tax school bond contingency loan fund is equal to the amount due as
25 principal of and interest on the school district bonds secured by state loans under 20-9-466 during the
26 next following 12 months.

27 (4) (a) Beginning July 1, 1993, and ending June 30, 2013, the state treasurer shall quarterly
28 transfer to the treasure state endowment fund 50% of the amount in the coal severance tax bond fund
29 in excess of the amount that is specified in subsection (2) to be retained in the fund and in excess of
30 amounts that are transferred pursuant to subsection (3).

(b) The state treasurer shall monthly transfer from the treasure state endowment fund to the treasure state endowment special revenue account the amount of earnings required to meet the obligations of the state that are payable from the account in accordance with 90-6-710. Earnings not transferred to the treasure state endowment special revenue account must be retained in the treasure state endowment fund.

(5) Any amount in the coal severance tax bond fund in excess of the amount that is specified in subsection (2)(a) to be retained in the fund and that is not otherwise allocated under this section must be deposited in the coal severance tax permanent fund."

Section 2. Section 17-6-308, MCA, is amended to read:

"17-6-308. Authorized investments. (1) Except as provided in subsections (2) through (4) and subject to the provisions of 17-6-201, the Montana permanent coal tax trust fund must be invested as authorized by rules adopted by the board.

(2) The board may make loans from the permanent coal tax trust fund to the capital reserve account created pursuant to 17-5-1515 to establish balances or restore deficiencies in the account. The board may agree in connection with the issuance of bonds or notes secured by the account or fund to make the loans. Loans must be on terms and conditions determined by the board and must be repaid from revenue realized from the exercise of the board's powers under 17-5-1501 through 17-5-1518 and 17-5-1521 through 17-5-1529, subject to the prior pledge of the revenue to the bonds and notes.

(3) (A) The board shall manage the seed capital and research and development loan portfolios created by the former Montana board of science and technology development. The board shall establish an appropriate repayment schedule for all outstanding research and development loans made to the university system. The board is the successor in interest to all agreements, contracts, loans, notes, or other instruments entered into by the Montana board of science and technology development as part of the seed capital and research and development loan portfolios, except agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. The board shall administer the agreements, contracts, loans, notes, or other instruments funded with coal tax permanent trust funds. Until the department makes a loan pursuant to the provisions of part 5 of this chapter, the \$915,000 in funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans made pursuant to part 5 of this chapter are repaid, the board shall deposit the proceeds or loans

made from the coal severance tax trust fund in the coal severance tax permanent fund until all investments are paid back with 7% interest.

(B) On July 1, 2001 2002, the board shall transfer \$100 \$6.5 million from the coal severance tax permanent fund to the HIGHER education trust fund. IN SUCCEEDING YEARS, THE BOARD SHALL TRANSFER THE FOLLOWING AMOUNTS TO THE HIGHER EDUCATION TRUST FUND:

(i) \$20 MILLION ON JULY 1, 2003;

(ii) \$20 MILLION ON JULY 1, 2004;

(iii) \$20 MILLION ON JULY 1, 2005;

(iv) \$20 MILLION ON JULY 1, 2006; AND

(v) \$13.5 MILLION ON JULY 1, 2007.

(C) The board shall deposit 10% of the interest and earnings on the HIGHER education trust fund in the fund and shall deposit the remaining 90% of the interest and earnings in the state general fund A STATE SPECIAL REVENUE ACCOUNT to be used to support resident students attending a unit of the Montana university system THE MONTANA HIGH SCHOOL HONOR SCHOLARSHIP PROGRAM OR OTHER STUDENT FINANCIAL AID ADMINISTERED BY THE BOARD OF REGENTS. THE MONEY IN THE STATE SPECIAL REVENUE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE BOARD OF REGENTS FOR THOSE PURPOSES.

(4) The board shall allow the Montana health facility authority to administer \$15 million of the permanent coal tax trust fund for capital projects. Until the authority makes a loan pursuant to the provisions of Title 90, chapter 7, the funds under its administration must be invested by the board pursuant to the provisions of 17-6-201. As loans for capital projects made pursuant to this subsection are repaid, the principal and interest payments on the loans must be deposited in the coal severance tax permanent fund until all principal and interest have been repaid. The board and the authority shall calculate the amount of the interest charge. Individual loan amounts may not exceed 10% of the amount administered under this subsection.

(5) The board shall adopt rules to allow a nonprofit corporation to apply for economic assistance. The rules must recognize that different criteria may be needed for nonprofit corporations than for for-profit corporations.

(6) All repayments of proceeds pursuant to subsection (3) of investments made from the coal severance tax trust fund must be deposited in the coal severance tax permanent fund."

~~NEW SECTION. Section 3. Three-fourths vote required. Because [section 1] creates a subfund in the coal severance tax trust fund, Article IX, section 5, of the Montana constitution, as interpreted by the Montana supreme court in Montanans for the Coal Trust v. State, requires a vote of three-fourths of the members of each house of the legislature for passage.~~

SECTION 3. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 3-5-901; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; 15-31-702; 15-34-115; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404; 16-1-406; 16-1-411; 17-3-106; 17-3-212; 17-3-222; 17-6-101; 17-6-308; 17-7-304; 18-11-112; 19-3-319; 19-6-709; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-6-703; 53-24-206; 67-3-205; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-505; 80-2-222; 80-4-416; 80-11-518; 81-5-111; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for

1 supplemental benefit; pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1,
2 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of
3 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability
4 is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1,
5 2014; and pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
6 terminates June 30, 2005.)"

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8 NEW SECTION. **Section 4. Effective date.** [This act] is effective July 1, ~~2004~~ 2002.

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